

**Commission Meeting Minutes  
March 10, 2021**

Chairman Philip Y. Brown called the meeting to order at 11:03 AM. He then stated that the Commission meeting is being tape recorded and this will be so noted in the minutes.

Chairman Brown acknowledged the other Commissioners participating: Commissioners Timothy Dooling, Kathleen Fallon, James Machado, Richard MacKinnon, and Jennifer Sullivan. Commissioner Kate Fitzpatrick was not in attendance. All attendees participated remotely pursuant to Governor Charles Baker's Executive Order dated March 12, 2020. Therefore, the Chairman announced, any votes in this meeting shall be taken by roll call vote.

PERAC Staff attending remotely: Executive Director John Parsons, Deputy Executive Director Caroline Carcia, General Counsel Judith Corrigan, Assistant Deputy Director Bill Keefe, Assistant Deputy Director Ken Hill, Actuary John Boorack, Compliance Director Tom O'Donnell, Director of Audits Caryn Shea, Senior Associate General Counsel Patrick Charles, Associate General Counsel Katie Brady, Associate General Counsel Felicia McGinniss, Project Manager Tony Tse, Fraud Prevention Manager Sandra King, and Senior Executive Assistant Kim Boisvert.

The guests introduced themselves: Tom Gibson representing the Middlesex and Belmont Retirement Systems, Nick Favorito representing the State Retirement System, Kathleen Kiely-Becchetti representing the Norfolk County, Watertown Retirement Systems and MACRS, Patrick Brock representing the Hampshire County Retirement System, John Brown representing the Middlesex Retirement System and MACRS, and Emily Thurlow a reporter from Mass Live.

Commissioner Machado made a motion to adopt the February 10, 2021 Commission meeting minutes. Commissioner MacKinnon seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Timothy Dooling YES, Kathy Fallon YES, James Machado YES, Richard MacKinnon YES, and Jennifer Sullivan YES, and the minutes were unanimously adopted.

Commissioner Machado made a motion to ratify the Commission's Executive Session (Purpose 1) Vote on February 10, 2021 which, in accordance with the authority granted to the Commission pursuant to General Laws Chapter 32, Section 20(7), granted a waiver to R. Michael Reardon regarding his educational credits due to extenuating circumstances, thereby permitting him to remain a board member of the Natick Retirement Board. Commissioner MacKinnon seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Timothy Dooling YES, Kathy Fallon YES, James Machado YES, Richard MacKinnon YES, and Jennifer Sullivan YES, and the motion was unanimously adopted.

Commissioner Sullivan made a motion to ratify the Commission's Executive Session (Purpose 7) Vote on February 10, 2021 in which the Commission, pursuant to its authority under General Laws Chapter 7, Section 50 and General Laws Chapter 32, Section 21, voted to refer the Hampden County Retirement System Audit Report to the State Ethics Commission, the Inspector General and the Attorney General. Commissioner Machado seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Timothy Dooling YES, Kathy Fallon YES, James Machado YES, Richard MacKinnon YES, and Jennifer Sullivan YES, and the motion was unanimously adopted.

#### **Administrative Sub-Committee Update**

Chairman Brown reported that the Administrative Sub Committee meeting was held this morning, March 10, 2021. The Sub-Committee approved a motion, to be forwarded to the full Commission, regarding the Executive Director's Annual Performance Review, an extension to his contract for an additional two (2) years (to January 2024), a 3% increase for the Executive Director, as well as a 1.5% COLA and up to 1.5% performance increase for staff. The Chairman expressed Commissioner Fitzpatrick's support for the motion at her request.

Commissioner Machado made a motion to adopt the Administrative Sub-Committee's motion on an overall outstanding rating to the Executive Director's Annual Performance Review, an extension to his contract for an additional two (2) years (to January 2024), a 3% increase for the Executive Director, as well as a 1.5% COLA and up to 1.5% performance increase for staff. Commissioner Dooling seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Timothy Dooling YES, Kathy Fallon YES, James Machado YES, Richard MacKinnon YES, and Jennifer Sullivan YES, and the motion was unanimously adopted.

#### **Actuarial Update**

Mr. Boorack reported that the Commonwealth Actuarial Valuation was not done last year due to the COVID-19 pandemic, however we did disclose certain financial disclosures for the State, Teachers, and Boston Teachers.

Mr. Boorack then reported that the recommended Investment Return Assumption has decreased every year for the past seven (7) years. In the past, PERAC has primarily used the NEPC study, PRIT's Investment Consultant, to determine its recommendation for the Investment Return Assumption. PERAC now bases its recommendation on information from several sources: The NEPC, Horizon Study, NASRA and other investment consultants. For the 1/21 actuarial valuations, Mr. Boorack recommends an Investment Return Assumption of 7.0%.

Discussion ensued regarding the Investment Return Assumption, the funding issues that municipalities are dealing with, and a 7.0% recommendation for the Commonwealth only. The assumption for the local systems, is adopted by the local retirement board.

Commissioner Sullivan made a motion to adopt the recommendation from the Actuary and adopt a 7.0% Investment Return Assumption for the Commonwealth. Commissioner Dooling seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Timothy Dooling YES, Kathy Fallon YES, James Machado NO, Richard MacKinnon YES, and Jennifer Sullivan YES. The motion was adopted on a 5-1 vote.

Mr. Boorack then reported on the status of the Commonwealth estimated 2020 and 2021 Valuation results.

### **Legal Update**

Ms. Brady updated the Commission on the case of *Attleboro Contributory Retirement Board v. PERAC*, CR-16-83, a post-retirement earnings case involving the depreciation of an asset owned by a company. The Attleboro Retirement Board has appealed this matter to the Contributory Retirement Appeal Board ("CRAB").

Ms. Corrigan updated the Commission in regard to the continuing *Vernava* case, involving the regular compensation status of vacation and sick time taken in conjunction with Workers' Compensation benefits. Following the February 2018 Supreme Judicial Court decision in *Vernava*, PERAC offered guidance via memoranda to the retirement boards. Five of the 104 boards sued PERAC, objecting to its implementation of *Vernava*, and those five boards prevailed in Middlesex Superior Court.

This Superior Court decision contained two parts. In Count I, the Superior Court found that PERAC had incorrectly implemented *Vernava*. In Count II, the Superior Court declined to issue an order stating that retirement boards do not have to follow PERAC memoranda. The Attorney General's Office is permitting PERAC to appeal as to Count I, and the retirement boards have appealed as to Count II. Ms. Corrigan explained that, since this involves the interpretation of a SJC decision, it is extremely likely that the SJC will take this case up itself.

Ms. Corrigan then reported on the case of *Retirement Board of Stoneham & others v. Massachusetts Teachers' Retirement System and another*, 19-P-1389, February 18, 2021, an unpublished Appeals Court decision involving reimbursements between retirement systems pursuant to G.L. c. 32, § 3(8)(c).

### **Legislative Update**

Mr. Keefe reported that Senator Michael Brady (D) of Brockton and Representative Ken Gordon (D) of Bedford have been appointed Chairs of the Public Service Committee for the 2021-22 legislative session. He also reported that Senate President Karen Spilka and Speaker Ron Mariano have announced their leadership team. He then stated that the filing date has passed and over 6500 bills have been filed for this legislative session.

Mr. Keefe announced that the Joint Ways and Means Committee is holding FY22 budget hearings and the House is expected to release its budget mid-April, then debate and pass a budget by the end of the month. He further explained that the Department of Revenue reports that the Commonwealth has exceeded its February revenue and has collected \$1.87 billion which is \$359 million or 24% over February of last year. Year to date, the State is \$1.123 billion and 6.1% over FY 20. Further, the Commonwealth Stabilization Fund remains at \$3.5 billion, according to the latest numbers from the Comptroller. There haven't been any withdrawals from the Fund this year. In fact, the Fund has increased \$16 million from interest and taxes. He continued that Massachusetts has received \$71 billion in federal funds from the latest Federal Relief Package (American Rescue Act) and estimates show the State could receive an additional \$11.8 billion.

### **Audit Update**

Ms. Shea reported that since the last Commission meeting, PERAC has released the Barnstable County, Boston, and Hampden County Retirement Board Audits. She then reported on their respective findings. She explained that there are currently 15 audits in process. Of those 15 audits, 1 audit is with the board awaiting its response, 3 are in the exit pending stage, 4 are in the field work review phase, 6 are in the field work phase, and 1 is in planning stage. Several auditors presented the "Cash Books and Annual Statement" training while the balance of the auditors attended the presentation. PERAC has received 5 Annual Statements and are reviewing them. Ms. Shea noted that most of the audit team have attended the Comptroller's "Fraud Management and Mitigation" webinar.

### **Compliance Update**

Mr. O'Donnell reported that education is off to a good start and in 2021 there have been 468 course completions by retirement board members. In addition, 121 board members have electronically filed their Statement of Financial Interests (SFI) in PROSPER for the year 2020. He continued that he included a recent article from Pension and Investments entitled *Former Regulators ask Congress to Address Market Stability* and found it to be very helpful.

### **Executive Director's Report**

Mr. Parsons first thanked the Commission for his salary increase and the increases for staff. He then discussed staff activities and stated that there have been several training sessions such as the SFI roll-out training, and "Annual Statement & Cash Books" training. He reported that years ago the board members had no desire to file their SFIs electronically and now they appear to prefer it. Mr. Parsons reported that the letter of waiver has been sent to Mr. Reardon and a copy of this letter is included in the package. He then reported that PERAC will be meeting with Ken Gordon, House Chairman of the Joint Committee on Public Service this coming week to discuss PERAC bills.

Mr. Parsons updated the Commission about the Hampden County Audit matter and included the copies of the AG, IG, and State Ethics Commission letters of referral in the package. Several media articles of interest have also been included. He has had several conversations regarding the referrals with several state and local officials, the Chairman of the Hampden County

Retirement Board and some members of that Board. He notified the Commission that the Board held a special meeting to discuss the audit with its member units. He further stated that PERAC would be going back into the Hampden County Retirement System earlier than six (6) months, not only for the follow up but to review more recent years of activity.

### **Other Business**

Commissioner Dooling stated that the Auditor's Office reviewed the presentation regarding the "Future of Work" for the public sector and was wondering if this was offered to PERAC and other quasi-entities. Mr. Parsons stated PERAC has not seen the presentation. He further explained that he is old-fashioned about people coming to work each day but he knows that PERAC staff has heard of the remote opportunities offered by the State. He would like to get the philosophy of the Commission regarding a hybrid schedule prior to discussing the same with staff.

Commissioner Dooling suggested assigning the "Future of Work" to a Sub-Committee. The Chairman suggested that the Administrative Sub-Committee review this matter and inquired if Commissioner Dooling would like to take the lead. Commissioner Dooling stated that he would not feel comfortable speaking on behalf of the Administration. He continued that he would attempt to acquire the presentation for the Administrative Sub-Committee.

Chairman Brown stated that the next Commission meeting would be held on April 14, 2021 at 11:00 AM.

Commissioner Fallon made a motion to adjourn the Commission meeting. Commissioner Sullivan seconded the motion and a roll call vote was taken:

Chairman Philip Brown YES, Commissioners Timothy Dooling YES, Kathy Fallon YES, James Machado YES, Richard MacKinnon YES, and Jennifer Sullivan YES, and the motion was unanimously adopted. The Commission meeting adjourned at 12:26 PM.

### **Commission Meeting Documents**

Commission Agenda for the meeting March 10, 2021  
Commission Minutes from February 10, 2021

### **Administrative Sub-Committee Update**

Executive Director's Annual Performance Review

**Actuarial Update**

Actuarial Update regarding the Investment Return Assumption  
Commonwealth Estimated 2020 and 2021 Valuation Results

**Legal Update**

*Attleboro Contributory Retirement Board v. PERAC*, CR-16-83  
*Retirement Board of Stoneham & others v. Massachusetts Teachers' Retirement System and another*, 19-P-1389

**Legislative Update**

Memorandum regarding Legislative updates

**Audit Update**

Barnstable County Retirement System Audit  
Boston Retirement System Audit  
Hampden County Retirement System Audit  
Audit Tracking Report

**Compliance Update**

Memorandum regarding Compliance updates  
*Former regulators ask Congress to address market stability* article from Pension and Investments

**Executive Director's Report**

Staff Activities  
Reardon waiver letter  
Correspondence to the new legislative leadership  
Articles of Interest regarding Hampden County Retirement System  
Correspondence regarding the Hampden County Retirement System Referrals

Approved:



Philip Y. Brown, Chairman  
Public Employee Retirement  
Administration Commission